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HOUSE BILL 106

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Al Park

AN ACT

RELATING TO MOTOR VEHICLES; CREATING PARKING PRIVILEGES FOR  
PERMANENT WHEELCHAIR ONLY DISABLED PERSONS; PROVIDING FOR  
ENFORCEMENT OF CERTAIN PARKING PRIVILEGES; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-51-46 NMSA 1978 (being Laws 1973,  
Chapter 22, Section 3, as amended) is amended to read:

"3-51-46. PASSENGER MOTOR VEHICLE OF DISABLED PERSON--  
PARKING [~~PRIVILEGE~~] PRIVILEGES. --

A. Passenger motor vehicles owned by and carrying  
disabled persons and displaying special registration plates, or  
passenger motor vehicles carrying persons with severe mobility  
impairment and displaying parking placards, issued pursuant to  
Section 66-3-16 NMSA 1978 shall be permitted to park for  
unlimited periods of time in parking zones restricted as to

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1 length of time parking is normally permitted and are exempt  
2 from payment of any parking fee of the state or its political  
3 subdivisions. The provisions of this section shall prevail  
4 over any other law, rule or local ordinance but do not apply to  
5 zones where stopping, standing or parking is prohibited, zones  
6 reserved for special types of vehicles, zones where parking is  
7 prohibited during certain hours of the day in order to  
8 facilitate traffic during those hours when parking is  
9 prohibited and zones subject to similar regulation because  
10 parking presents a traffic hazard.

11 B. Passenger motor vehicles identified with a  
12 permanent wheelchair only disabled placard issued pursuant to  
13 Section 66-3-16 NMSA 1978 shall be authorized to park in spaces  
14 designated for persons in wheelchairs only."

15 Section 2. Section 66-1-4.14 NMSA 1978 (being Laws 1990,  
16 Chapter 120, Section 15, as amended) is amended to read:

17 "66-1-4.14. DEFINITIONS. --As used in the Motor Vehicle  
18 Code:

19 A. "park" or "parking" means the standing of a  
20 vehicle, whether occupied or not, other than temporarily for  
21 the purpose of and while actually engaged in loading and  
22 unloading;

23 B. "parking lot" means a parking area provided for  
24 the use of patrons of any office of state or local government  
25 or of any public accommodation, retail or commercial

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1 establishment;

2 C. "parts car" means a motor vehicle generally in  
3 nonoperable condition that is owned by a collector to furnish  
4 parts that are usually nonobtainable from normal sources, thus  
5 enabling a collector to preserve, restore and maintain a motor  
6 vehicle of historic or special interest;

7 D. "pedestrian" means any natural person on foot;

8 E. "permanent wheelchair only disabled parking  
9 space" means any space, including an access aisle, marked and  
10 reserved for the parking of a passenger vehicle that carries a  
11 parking placard indicating permanent wheelchair only disability  
12 in accordance with Section 66-3-16 NMSA 1978, and designated by  
13 a conspicuously posted sign bearing the international disabled  
14 symbol of a wheelchair and, if paved, by a clearly visible  
15 depiction of this symbol painted in distinctive colors other  
16 than blue on the pavement of the space;

17 [~~E.~~] F. "person" means every natural person, firm,  
18 copartnership, association, corporation or other legal entity;

19 [~~F.~~] G. "personal information" means information  
20 that identifies an individual, including an individual's  
21 photograph, social security number, driver identification  
22 number, name, address other than zip code, telephone number and  
23 medical or disability information, but "personal information"  
24 does not include information on vehicles, vehicle ownership,  
25 vehicular accidents, driving violations or driver status;

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1           ~~[G.]~~ H. "placard" or "parking placard" means a  
2 card-like device that identifies the vehicle as being currently  
3 in use to transport a person with severe mobility impairment  
4 and issued pursuant to Section 66-3-16 NMSA 1978 to be  
5 displayed inside a motor vehicle so as to be readily visible to  
6 an observer outside the vehicle, including separate placards  
7 for:

8                           (1) permanently disabled;

9                           (2) permanently wheelchair only disabled; and

10                           (3) temporarily disabled;

11           ~~[H.]~~ I. "pneumatic tire" means every tire in which  
12 compressed air is designed to support the load;

13           ~~[I.]~~ J. "pole trailer" means any vehicle without  
14 motive power, designed to be drawn by another vehicle and  
15 attached to the towing vehicle by means of a reach or pole or  
16 by being boomed or otherwise secured to the towing vehicle and  
17 ordinarily used for transporting long or irregularly shaped  
18 loads such as poles, structures, pipes and structural members  
19 capable, generally, of sustaining themselves as beams between  
20 the supporting connections;

21           ~~[J.]~~ K. "police or peace officer" means every  
22 officer authorized to direct or regulate traffic or to make  
23 arrests for violations of the Motor Vehicle Code;

24           ~~[K.]~~ L. "private road or driveway" means every way  
25 or place in private ownership used for vehicular travel by the

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1 owner and those having express or implied permission from the  
2 owner, but not other persons; and

3 ~~[L-]~~ M "property owner" means the owner of a piece  
4 of land or the agent of that property owner."

5 Section 3. Section 66-3-16 NMSA 1978 (being Laws 1978,  
6 Chapter 35, Section 36, as amended) is amended to read:

7 "66-3-16. SPECIAL REGISTRATION PLATES--DISABLED  
8 PERSONS--PARKING PLACARD. --

9 A. The division shall issue distinctive  
10 registration plates to any disabled person who so requests and  
11 who proves satisfactorily to the division that he has suffered  
12 the loss, or the complete and total loss of use of, one or both  
13 legs at or above the ankle or of one or both arms at or above  
14 the wrist for use on motor vehicles owned by the person. No  
15 fee in addition to the regular registration fee, if any,  
16 applicable to the motor vehicle shall be collected for issuance  
17 of special registration plates pursuant to this section.

18 B. No person shall falsely represent himself to be  
19 disabled so as to be eligible to be issued a special  
20 registration plate or a parking placard pursuant to this  
21 section when he is in fact not disabled. Upon notice and  
22 opportunity to be heard, the division may revoke and demand  
23 return of any placard when:

24 (1) it was issued in error or with false  
25 information;

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1 (2) the person receiving the placard is no  
2 longer eligible; or

3 (3) the placard is being used by ineligible  
4 persons.

5 C. Upon written application to the division  
6 accompanied by a medical statement by a licensed physician  
7 attesting to the permanent disability or permanent wheelchair  
8 only disability, a resident of the state who has a disability  
9 that limits or impairs the ability to walk, as provided in  
10 Subsection G of this section, or who is permanently wheelchair  
11 only disabled may apply for and be granted the issuance of no  
12 more than two parking placards for display upon a motor vehicle  
13 registered to him or motor vehicle owned by another person who  
14 is transporting him. The physician shall provide the division  
15 all information and records necessary to issue a permanent  
16 parking placard. Once approved for use of a permanent parking  
17 placard, a person shall not be required to furnish further  
18 medical information about his mobility impairment. Separate  
19 placards shall be issued for persons who are:

20 (1) permanently disabled;

21 (2) permanently wheelchair only  
22 disabled; and

23 (3) temporarily disabled.

24 D. A parking placard issued pursuant to this  
25 section shall expire on the same date the person's license or

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1 identification card issued pursuant to Section 66-5-401 NMSA  
2 1978 expires.

3 E. The division shall issue two-sided hanger-style  
4 parking placards with the following characteristics:

5 (1) the international symbol of access shall  
6 be displayed on both sides of the placard and shall be at least  
7 three inches in height, centered on the placard and white on a  
8 blue field for permanent non-wheelchair disabilities and white  
9 on a gold field for permanent wheelchair only disabilities;

10 (2) an identification number enabling the  
11 division to identify the holder of each placard. The division  
12 shall maintain this information in a readily retrievable  
13 format, provide it to the governor's [~~committee on concerns of~~  
14 ~~the handicapped~~] commission on disability and make it available  
15 on demand to any law enforcement agency just as it provides  
16 vehicle registration and driver's license information;

17 (3) the date of expiration; and

18 (4) the division seal or other identification  
19 of the issuing authority.

20 F. Upon written application to the division  
21 accompanied by a medical statement from a licensed physician  
22 attesting to a temporary disability, a person who has a  
23 temporary disability that limits or impairs the ability to walk  
24 may be issued a temporary placard for no more than one year.  
25 The physician shall provide the division all information and

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1 records necessary to issue a temporary placard.

2 G. For the purpose of obtaining a placard, a person  
3 with a "severe mobility impairment" means the person:

4 (1) cannot walk one hundred feet without  
5 stopping to rest;

6 (2) cannot walk without the use of a brace, a  
7 cane, a crutch, assistance from another person, a prosthetic  
8 device, a wheelchair or another assistive device;

9 (3) is restricted by lung disease to such an  
10 extent that the person's forced respiratory volume, when  
11 exhaling for one second, when measured by spirometry, is less  
12 than one liter or the arterial oxygen tension is less than  
13 sixty millimeters on room air at rest;

14 (4) uses portable oxygen;

15 (5) has a severe cardiac condition; or

16 (6) is so severely limited in his ability to  
17 walk due to an arthritic, neurologic or orthopedic condition  
18 that the person cannot ascend or descend more than ten stair  
19 steps.

20 H. Special registration plates or placards issued  
21 to a person with severe mobility impairment by another state or  
22 foreign jurisdiction shall be honored until the vehicle is  
23 registered or the placard holder establishes residency in this  
24 state.

25 I. All parking placards issued on or after July 1,

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1 1999 shall be issued in accordance with the provisions of this  
2 section. "

3 Section 4. Section 66-7-352.4 NMSA 1978 (being Laws 1983,  
4 Chapter 45, Section 4, as amended) is amended to read:

5 "66-7-352.4. PARKING LOTS--STANDARDS. --

6 A. Every parking lot coming under the provisions of  
7 the Disabled Parking Standards and Enforcement Act shall have  
8 designated disabled parking spaces as provided in Subsection B  
9 of this section. No building permit shall be issued by any  
10 local government for the construction or substantial renovation  
11 of a commercial building inviting public access unless the  
12 parking lot has designated disabled parking spaces as  
13 delineated in Subsection B of this section.

14 B. The minimum numbers of designated disabled  
15 parking spaces are as follows:

16 TOTAL SPACES IN PARKING LOT	17 MINIMUM DESIGNATED DISABLED PARKING SPACES
18 1 to 25	1
19 26 to 35	2
20 36 to 50	3
21 51 to 100	4
22 101 to 300	8
23 301 to 500	12
24 501 to 800	16
25 801 to 1,000	20

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1 more than 1,000 20, plus 1 for  
2 each  
3 100 over 1,000.

4 The designated disabled parking spaces shall be located so as  
5 to provide the most convenient access to entranceways or to the  
6 nearest curb cut. Every parking lot shall have at least one  
7 designated disabled parking space designed to accommodate a  
8 motor vehicle passenger van, and there shall be a minimum of  
9 one such space for every ~~eight~~ four designated disabled  
10 parking spaces. The passenger van spaces shall be designated  
11 for vehicles with permanent wheelchair only disabled placards  
12 and shall have a color-coded sign to match the placard colors  
13 pursuant to Paragraph (1) of Subsection E of Section 66-3-16  
14 NMSA 1978. "

15 Section 5. Section 66-7-352.5 NMSA 1978 (being Laws 1983,  
16 Chapter 45, Section 5, as amended) is amended to read:

17 "66-7-352.5. UNAUTHORIZED USE--PENALTIES.--

18 A. It is unlawful for any person to park a motor  
19 vehicle not displaying a special registration plate or a  
20 parking placard issued pursuant to Section 66-3-16 NMSA 1978 in  
21 a designated disabled parking space.

22 B. It is unlawful for any person to park a motor  
23 vehicle not displaying a permanent wheelchair only disabled  
24 placard issued pursuant to Section 66-3-16 NMSA 1978 in a  
25 designated permanent wheelchair only disabled parking space or

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1 access aisle.

2 ~~[B.]~~ C. It is unlawful for any person to park a  
3 motor vehicle in such a manner so as to block access to any  
4 part of a curb cut designed for access by persons with severe  
5 mobility impairment.

6 ~~[C.]~~ D. Any person convicted of violating  
7 Subsection A, ~~[or]~~ B or C of this section is subject to a fine  
8 of not less than one hundred dollars (\$100) or more than three  
9 hundred dollars (\$300). Failure to properly display a parking  
10 placard or special registration plate issued pursuant to  
11 Section 66-3-16 NMSA 1978 is not a defense against a charge of  
12 violation of Subsection A, ~~[or]~~ B or C of this section.

13 ~~[D.]~~ E. A vehicle parked in violation of Subsection  
14 A, ~~[or]~~ B or C of this section is subject to being towed at the  
15 expense of the vehicle owner upon authorization by law  
16 enforcement personnel or by the property owner or manager of a  
17 parking lot. "

18 Section 6. EFFECTIVE DATE. --The effective date of the  
19 provisions of this act is July 1, 2005.